

**UNITED STATES DISTRICT COURT
DISTRICT OF NORTH DAKOTA
NORTHWESTERN DIVISION**

United States of America,)	
)	
Plaintiff,)	Case No. C4-95-33
)	
vs.)	
)	
Cecil L. Wallis,)	ORDER DISMISSING
)	SUCCESSIVE MOTION
Defendant.)	

Before the Court is Wallis's motion pursuant to 28 U.S.C. § 2255. The motion is premised upon the recent Supreme Court decision in United States v. Shepard, 544 U.S. 13 (2005). Wallis argues the Court looked at impermissible documentation in making the determination that his prior felony convictions qualified him for armed career criminal status.

Wallis pled guilty, pursuant to a written plea agreement, to one count of possession of firearms by a person who has three or more previous felony convictions on January 29, 1996. He was sentenced to 180 months imprisonment on May 31, 1996. Wallis appealed. On November 15, 1996, the Eighth Circuit Court of Appeals affirmed the conviction and sentence. United States v. Wallis, 100 F.3d 960 (8th Cir. 1996). A motion pursuant to 28 U.S.C. § 2255 was filed by Wallis on September 19, 1997. The Court denied the motion on November 24, 1997. Wallis appealed. The Eighth Circuit Court of Appeals dismissed the appeal for lack of jurisdiction. Wallis is currently serving his sentence at the Federal Correctional Institution in Waseca, Minnesota. The instant 2255 motion was filed January 24, 2006.

The Court has reviewed the motion as required by Rule 4(b) of the Rules Governing Section 2255 Proceedings. The motion is clearly a second or successive Section 2255 motion.

Before a second or successive Section 2255 motion may be filed in the district court the applicant must move the appropriate court of appeals for an order authorizing the district court to consider the second or successive Section 2255 motion. 28 U.S.C. §§ 2244(3)(A) and 2255. It does not appear from Wallis's submission that he has complied with this requirement and for this reason the matter must be dismissed.

Accordingly, Wallis's § 2255 motion (Docket No. 80) is hereby **DISMISSED**.

IT IS SO ORDERED.

Dated this 3rd day of February, 2006.

/s/ Patrick A. Conmy
Patrick A. Conmy, Senior District Judge
United States District Court